

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.1364 OF 1988

For Approval & Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not ?
3. Whether their lordships wish to see the fair copy of the judgment ?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
5. Whether it is to be circulated to the Civil Judge?

JAYANT OIL INDUSTRIES

VERSUS

GOVT. OF GUJARAT & ANR.

Appearance:

MR JD AJMERA for petitioner

MS MANISHA LAVKUMAR for respondents

Coram: MR.JUSTICE S.K. Keshote,J

Date of decision: 30/08/2000

C.A.V. JUDGMENT

#. The junior advocate appearing for Mr.J.D.Ajmera,

learned counsel for petitioner made a request for adjournment of the matter, but looking to the fact that this matter is of the year 1988, it cannot be adjourned at the convenience of the advocate. Otherwise also, earlier, many times, the matter has come up before this court for hearing and Mr.J.D.Ajmera was there and he made some arguments also.

#. For the illegalities and irregularities found at the industry of the petitioner, order has been passed for confiscation of 915 kgs. of groundnut oil. This has been ordered as on inspection it is found that the petitioner has made breach of clause-23 of the Gujarat Essential Commodities (Licensing, Control and Stock Declaration) Order, 1981, and condition No.4 of the licence. This order has been challenged by petitioner by filing appeal and that has also been dismissed. Hence this special civil application.

#. All the authorities have concurrently held that it is the case of contravention made by petitioner of the orders framed under the Essential Commodities Act, 1955, and the condition of Licence. After recording these findings, the authorities have ordered for confiscation of 915 kgs. of groundnut oil. In the panchnama there is a mention of the fact that on inspection of tanks, it is found that there must be 7.5 inch quantity of oil in the tank and in two under ground tanks below the ex-piller and in the general tank, there was 300 kg. of the groundnut seeds. In view of the facts of this case, the authorities have not committed any illegality in holding that separate panchnama in respect of tanks as contended by counsel for the petitioner was not necessary. From the inspection papers prepared at the time of inspection of the establishment of the petitioner, it is found that the groundnut and groundnut seeds have not been processed as per the quantity and yet there was excess of 315 kg. of groundnut oil. On examination of separate accounts of income of groundnut and groundnut seeds the authorities found that though the present stock has not been processed, there was production of 915 kg. of groundnut oil. In these facts, the authorities below have rightly concluded that the petitioner is not maintaining true and correct accounts. The contention raised by counsel for the petitioner appearing before the appellate authority that the petitioner has not been permitted to cross-examine inspection officer and no evidence has been allowed to be produced has rightly been not accepted. The petitioner has been served with show cause notice. The appellate authority found on verification of record that the partner of the petitioner firm - Shri Jivandas

has appeared in person on 24th September, 1982 and stated that save and except his written submission, he has nothing to submit further and that he has not to examine the complainant and has not produced the evidence. In view of these facts, this grievance has also rightly not been accepted. Under section 6A of the Essential Commodities Act, 1955, powers vest with the competent authority to order for confiscation of essential commodities and the petitioner has been given full opportunity in the matter and it has utterly failed to give out an explanation for this excess quantity of groundnut oil. It is not the case which calls for interference of this court under Article 226 / 227 of the Constitution of India.

#. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, earlier granted stands vacated. No order as to costs.

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(sunil)